

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE  
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, PART III

VN HOTEL INVESTORS, LLC, )

Plaintiff, )

VS. )

NO. 06-2664-III )

TENNESSEE STATE BOARD OF )  
EQUALIZATION; METROPOLITAN )  
GOVERNMENT OF NASHVILLE )  
AND DAVIDSON COUNTY; JO ANN )  
NORTH, ASSESSOR OF PROPERTY, )  
DAVIDSON COUNTY; CHARLIE )  
CARDWELL, TRUSTEE, DAVIDSON )  
COUNTY, )

Defendants. )

FILED  
2001 SEP -4 PM 2:52  
DAVIDSON CO. CHANCERY CT.  
D.C. & M.

MEMORANDUM AND ORDER

The plaintiff filed the above-captioned petition for review asserting that the State Board of Equalization erred in refusing to hear the plaintiff's appeal of a 2005 property tax assessment. The plaintiff also challenges the Davidson County Property Assessor's assessment of the subject property on the grounds that the valuation placed on the property was too high. The State Board declined to hear the plaintiff's appeal on jurisdictional grounds and never reached the valuation issue.

After reviewing the administrative record, the Court concludes that the State Board correctly declined, on jurisdictional grounds, to consider the plaintiff's appeal because the appeal was filed more than five months after the last possible date for filing appeals of 2005 tax assessments (March 1, 2006), and because the applicable statutes do not authorize the Board to excuse the plaintiff's late filing of the appeal. The Court's reasoning is as follows.

The record establishes that in July of 2005 the plaintiff acquired a hotel on Brick Church Pike. The plaintiff, therefore, was not record owner of the property on January 1, 2005, or in May of 2005 when assessments were made, and the plaintiff would not have been sent a notice of assessment for the 2005 tax year. Rather the notice of assessment would have gone to the prior property owner as the owner of record on January 1, 2005. *See* TENN. CODE ANN. § 67-5-504 (2003). In the plaintiff's petition, it asserts that the Davidson County Register of Deeds received the special warranty deed naming the plaintiff as the new owner on July 29, 2005. Although the record is unclear, the petition suggests that the tax bill, which would have been sent in October 2005, was sent to the prior owner of the property rather than to the plaintiff even though the plaintiff had filed its special warranty deed in July of 2005 with the Davidson County Register of Deeds.

The Metropolitan Government of Nashville and Davidson County ("Metro") asserts that the 2005 tax bill was mailed to the former owner of the property as the information for the new owner had not been keyed into the tax system at the time of the October mailing.



The mailing address for the current owners was updated on November 11, 2005, and the first notice from the Trustee's Office to the new owner was sent on February 8, 2006. This is a standard courtesy notice that the taxes are outstanding and are due prior to March 1.

The record establishes that in August of 2006 the plaintiff received a copy of the 2005 tax bill from the prior owner of the property. Later that month, the plaintiff submitted an appeal form to the State Board of Equalization whereby it sought to appeal the 2005 assessment of its property. The plaintiff was notified by letter from a staff member of the Board that the appeal was filed too late. The effect of the letter was that the Board declined to hear the appeal on jurisdictional grounds.

The first step in any assessment appeals process is to request review from the Metro Board of Equalization. TENN. CODE ANN. § 67-5-1412(b). The plaintiff did not request review of the 2005 assessment before the Metro Board during its regular or special session as established by the administrative record. Then, appeals to the State Board from the action of the Local Board must be filed before August 1 of the tax year or within 45 days of the date notice of the Local Board action was sent, whichever is later. TENN. CODE ANN. § 67-5-1412(e).

Tennessee Code Annotated section 67-5-1412 (2003) provides relief to taxpayers who claim that they are not timely notified of a tax assessment. The statute provides that the taxpayer may file an appeal directly with the State Board of Equalization "at any time within 45 days after the tax billing date for the assessment." TENN. CODE ANN. § 67-5-1412(e).

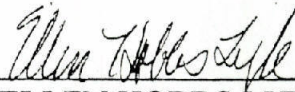


Moreover, if the taxpayer fails to file its appeal within 45 days after the tax billing date, the taxpayer still may be entitled to a "hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in Tennessee Code Annotated section 67-5-1412." If the taxpayer demonstrates "such reasonable cause, the Board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made." TENN. CODE ANN. § 67-5-1412(e).

Applying the foregoing to the facts of this case, the Court concludes that March 1, 2006, was the last possible date on which the Board could accept appeal forms. Under the statute this is true even in cases where the taxpayer claims that it was not notified of the assessment in time to appeal to either the local board or the state board. Under the statute, although the Board has been given authority to accept appeal forms from taxpayers up to March 1 of the following year in certain cases, no statutory authority exists for the Board to accept appeal forms after March 1 for any reason. The Court concludes, then, that the Board in this case properly declined to hear the plaintiff's appeal of the 2005 tax assessment, which was not submitted until August 2006.

Having concluded that the State Board properly denied the appeal for lack of jurisdiction, the Court shall not address the plaintiff's appeal with respect to valuation of the property which, in any event, would require a remand to the Board for determination of value.


It is therefore ORDERED that the above-captioned petition is dismissed with prejudice. Court costs and any fax filing fees are assessed to the plaintiff, for which execution may issue if necessary.

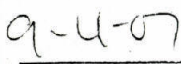
  
\_\_\_\_\_  
ELLEN HOBBS LYLE  
CHANCELLOR

cc: Bryan Mills  
Mary Ellen Knack  
Margaret Darby

RULE 58 CERTIFICATION

A Copy of this order has been served by U. S. Mail  
upon all parties or their counsel named above.

  
\_\_\_\_\_  
Deputy Clerk and Master  
Chancery Court

  
\_\_\_\_\_  
Date

TH. ST. BD. EQUALIZATION

2007 SEP 10 PM 1:47

RECEIVED